



City of Cambridge Police Department

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Robert C. Haas
Police Commissioner

Richard C. Rossi
City Manager

To: Richard C. Rossi, City Manager

From: Robert C. Haas, Police Commissioner

Date: Wednesday, June 4, 2014

Ref.: City Council Order #1, dated June 2, 2014

Dear Sir:

As requested, I am responding to the above referenced City Council Order as it relates to the enforcement of ICE detainers against persons who may be wanted for immigration purposes. I have prepared the following explanation, which addresses the concerns that are contained within the City Council Order.

The Cambridge Police Department has not relied upon, nor has it used ICE detainers as the primary or sole basis in which to incarcerate or hold an individual in custody. All persons who have been brought into custody by members of the Cambridge Police Department have been individuals who were subject to arrest under state law or for a warrant of apprehension. Any information relative to an ICE detainer against an individual, since the Commonwealth's entry into the Secure Communities initiative, has only been ascertained through the fingerprinting submission of a detainee during the booking process for which an individual was arrested.

Since the Commonwealth has entered into the Secure Communities initiative, the Cambridge Police Department has been systematically tracking when ICE detainers are issued against an individual who may have been brought into custody for an arrestable offense through the department's records management system (RMS). This internal audit was established so that the Department had the ability to monitor the disposition of cases when individuals who were arrested for the commission of a crime or the subject of a warrant for apprehension, and there was also a return of an ICE detainer. As a reminder, the Cambridge Police Department does not arrest individuals for violations of federal immigration laws, nor does it transport individuals to ICE or other federal agencies for immigration enforcement purposes.

Over the last eighteen months, there have only been a total of five entries into the department's RMS indicating that actual ICE detainers were lodged for individuals arrested and in the Department's temporary custody on state criminal charges. Of these five arrestees, three individuals were originally arrested for default or straight warrants, all of whom were not eligible for bail, regardless of the subsequent issuance of ICE detainers. The other two arrestees were denied bail, so the ICE detainers were otherwise moot. Moreover, of these five arrestees, two of the individuals were subsequently brought to court on the same day that they were arrested and the other three individuals were brought to court on the day following their arrest.

Although the Department has not held an arrestee solely on an ICE detainer, hypothetically speaking, if an individual was to be arrested over the weekend, an ICE detainer was issued, and the bail commissioner actually set a bail, which was then posted by the arrestee, the Department *may* detain the individual pending the next sitting of the district court. It is important to note that detention would occur only if the Department received an actual I-247 "Immigration Detainer – Notice of Action." This document spells out the basis for detention (i.e., arrestee is subject to removal (including why the arrestee is subject to removal), removal proceedings have been initiated, an arrest warrant was issued for removal proceedings, or an order of deportation or removal was obtained). This document also provides the contact information for the ICE agent seeking detention.

If it appears that an arrestee is subject to being held solely on an ICE detainer and prior to that decision being made, the Shift Commander, in consultation with the Duty Chief, will evaluate on a case-by-case basis the grounds for detention before the ICE detainer is actually honored. Where appropriate, the Shift Commander will also consult with the ICE agent seeking detention to clarify any factual issues. In general, an ICE detainer based on a warrant of arrest for removal proceedings or an order of deportation or removal from the United States will be honored by the Department. Similarly, an ICE detainer based on a conviction for illegal entry, illegal re-entry after a previous removal or return, or a documented finding of immigration fraud will also be honored. An ICE detainer based on a prior felony charge or conviction will honored if the documented charge or conviction demonstrates a significant risk to public safety. This would include, but is not limited to, crimes of violence, sexual assault and/or abuse, the unlawful possession and/or use of a firearm, and the distribution and trafficking of a controlled substance. To this same end, the Department will also honor an ICE detainer based on a documented, significant risk to national security, border security or public safety.

The Department, however, will not honor an ICE detainer based solely on misdemeanor charges and/or convictions or for the initiation of removal proceedings where the arrestee has been previously served with a notice to appear beyond the date of arrest for which the arrestee is in the Department's custody.

If an ICE detainer is honored by the Department under the above-referenced circumstances, the arrestee will be held pending transport to the next sitting of the district court.

In many respects, the practices of the Department goes beyond the scope of the City Council Order, and there have been safeguards built into our process that are designed not to jeopardize the trust that the members of the Department have worked so hard in achieving.

I hope you find this response responsive to the City Council Order, and if there are any additional questions or concerns regarding this matter, please let me know.

Respectfully submitted,



Robert C. Haas
Police Commissioner